

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
~~ROANOKE~~ DIVISION
DANVILLE

SEP 13 2005

JOHN F. CORCORAN, CLERK
BY: *HMcOmally*
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UNITED STATES OF AMERICA,
Plaintiff,

Criminal Case No. 4:04cr70014

v.

ORDER

ANTHONY L. HAGWOOD,
Defendant.

By: Jackson L. Kiser
Senior U.S. District Judge

This matter is before the court upon defendant's motion which the court construes as a request for free copies of his trial transcripts. The defendant states that he needs the transcripts to aid him in preparing a motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C. §2255.

Defendant requests that the court order Louis Dene, court appointed appellate counsel, to forward such copies of his transcript to plaintiff. However, plaintiff has not provided any evidence to suggest that Dene does in fact have those transcripts. Additionally, there is no indication from the court's docket that any transcript of defendant's criminal proceedings has been prepared nor has defendant provided any evidence of a particularized need supporting the preparation of transcripts at the government's expense.

An indigent defendant who is pursuing a motion under §2255 is entitled to free transcript(s) from his criminal proceedings only if the court finds that the §2255 motion is not frivolous and the transcript is needed to decide the issues presented in the motion. See 28 U.S.C. § 753(f); United States v. MacCollom, 426 U.S. 317 (1976); United States v. Shoaf, 341 F.2d 832, 833-34 (4th Cir. 1964)(indigent defendant must show some need for transcript beyond his mere desire to comb the record in hope of discovering errors to raise in habeas). As the defendant has not yet filed a §2255 motion or otherwise explained why the transcript is necessary to support his claims, the court cannot

find at this time that he is entitled to a transcript at court expense.

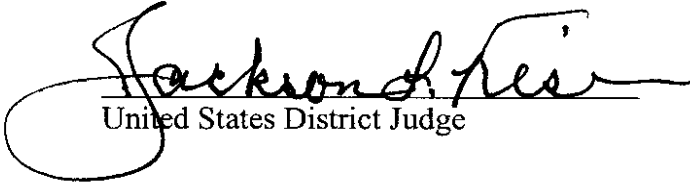
In accordance with the foregoing, it is hereby

ORDERED

that defendant's motion for free transcripts shall be and hereby is **DENIED**.

The Clerk is directed to send certified copies of this order to the defendant.

ENTER: This 13th day of September, 2005.


United States District Judge